

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

2005 DEC 13 A 10:04

DISTRICT OF UTAH

BY: DEPUTY CLERK

REBECCA A. COLONNA and JACK
COLONNA,

Plaintiffs,

vs.

BRIAN WEIDMER, AARON KENNARD,
LEISHA M. LEE-DIXON, and JOHN DOES
et al. (1-100),

Defendants.

ORDER ADOPTING REPORT AND
RECOMMENDATION

Case No. 2:05 CV 128 TC

All pretrial matters in the above case were referred to United States Magistrate Judge David O. Nuffer pursuant to 28 U.S.C. § 636(b)(1)(B). Before the court is a Motion to Dismiss filed by Defendants Brian Weidmer and Aaron Kennard (Dkt. #10) citing failure to state a claim upon which relief can be granted.

Rebecca A. Colonna filed this action on February 18, 2005, listing herself and her husband, Jack N. Colonna, as plaintiffs. She alleged that her civil rights were violated during a search that occurred at the Colonna home on June 14, 2000 because the search warrant was obtained through fraudulent statements made by Officer Weidmer in the affidavit supporting the warrant. She also claimed her civil rights were violated because of the manner in which the warrant was executed.

Judge Nuffer issued his Report and Recommendation on November 23, 2005, finding as follows: Plaintiff has no private cause of action under 18 U.S.C. §1001, (2) Plaintiff is not a member of the bar and cannot assert any claims on behalf of Jack Colonna, (3) Plaintiff has failed to state a claim upon which relief can be granted, and (4) Defendants are immune from suit for claims of negligence under Utah's Governmental Immunity Statutes. Accordingly, Judge Nuffer recommended that Defendants' Motion to Dismiss be GRANTED.

The parties were given ten days from the date of the issuance of the Report and Recommendation to file objections; neither party has filed objections.

The court has conducted a *de novo* review of Judge Nuffers' recommendation and agrees therewith. Accordingly, the Report and Recommendation is adopted as the order of this court. Defendants' Motion to Dismiss is GRANTED.

DATED this 8th day of December, 2005.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
United States District Judge